1

2

3

4

5

6

7

8   UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11   RAFAEL ESPINOZA,   No. 1:20-cv-00824-NONE-JLT (HC)

12   Petitioner,   ORDER ADOPTING FINDINGS AND
                                                 RECOMMENDATIONS (Doc. No. 8)
13
                                                 ORDER DISMISSING PETITION FOR WRIT
14   v.   OF HABEAS CORPUS

15   ORDER DIRECTING CLERK OF COURT TO
                                                 ENTER JUDGMENT AND CLOSE CASE
16
      STANISLAUS COUNTY SHERIFFS   ORDER DECLINING TO ISSUE
17   DEPARTMENT,   CERTIFICATE OF APPEALABILITY

18   Respondent.   ORDER DIRECTING CLERK OF COURT TO
                                                 FORWARD PRISONER CIVIL RIGHTS
19   PACKET TO PETITIONER

20

21   Petitioner is a state prisoner proceeding in propria persona with a petition for writ of

22   habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner seeks compassionate release from state

23   custody on the basis that he is a first-time offender, that he was released on bail pending

24   sentencing, and because of "a heightened risk of contracting COVID-19." (Doc. 1 at 2–3.) On

25   June 16, 2020, the assigned magistrate judge issued findings and recommendations

26   recommending that the pending petition be dismissed because it failed to raise any claims

27   cognizable on federal habeas corpus review. (Doc. No. 8.) The findings and recommendations

28   were served upon all parties and contained notice that any objections were to be filed within thirty

                                              1

1   days from the date of service of that order. On June 25, 2020, petitioner filed objections. (Doc.

2   No. 11.)

3   In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), the court has conducted a

4   de novo review of the case. Having carefully reviewed the entire file, including petitioner's

5   objections, the court concludes that the findings and recommendations are supported by the

6   record and proper analysis. Petitioner's objections present no grounds for questioning the

7   magistrate judge's recommendation to dismiss his habeas petition. However, in an abundance of

8   caution and because petitioner's objections arguably raise concerns about the conditions of his

9   confinement, the court will direct the Clerk of Court to forward petitioner a copy of the "Prisoner

10   Civil Rights Packet."

11   In addition, the court declines to issue a certificate of appealability. A state prisoner

12   seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of

13   his petition, and an appeal is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537

14   U.S. 322, 335–36 (2003). Specifically, the federal rules governing habeas cases brought by state

15   prisoners require a district court issuing an order denying a habeas petition to either grant or deny

16   therein a certificate of appealability. *See* Rules Governing § 2254 Case, Rule 11(a). A judge

17   shall grant a certificate of appealability "only if the applicant has made a substantial showing of

18   the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), and the certificate must indicate

19   which issues satisfy this standard. 28 U.S.C. § 2253(c)(3). "Where a district court has rejected

20   the constitutional claims on the merits, the showing required to satisfy § 2253(c) is

21   straightforward: [t]he petitioner must demonstrate that reasonable jurists would find the district

22   court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S.

23   473, 484 (2000). Here, petitioner has not made such a showing. Accordingly, a certificate of

24   appealability will not be issued.

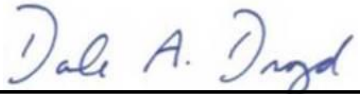25   Accordingly, the court orders as follows:

26   1.   The findings and recommendations, filed June 16, 2020 (Doc. No. 8), are

27   ADOPTED IN FULL;

28   2.   The petition for writ of habeas corpus is DISMISSED;

1   3.   The Clerk of Court is DIRECTED to ENTER JUDGMENT and close the file;

2   4.   The court DECLINES to issue a certificate of appealability; and

3   5.   The Clerk of Court is directed to send petitioner a copy of the "Prisoner Civil

4   Rights Packet," which is also available on the court's website.

5   This order terminates the action in its entirety.

6   IT IS SO ORDERED.

7   Dated: **July 16, 2020**

8   UNITED STATES DISTRICT JUDGE